

Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

## CHAPTER 52—SALMON AND STEELHEAD CONSERVATION AND ENHANCEMENT

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### SUBCHAPTER I—GENERAL PROVISIONS

#### § 3301. Congressional findings and declaration of purpose

(a) The Congress finds and declares the following:

(1) The stocks of salmon and steelhead which originate in the rivers of the conservation areas constitute valuable and renewable natural resources. Many groups of commercial, recreational, and treaty fishermen have historically depended upon these stocks of fish for their livelihoods and avocations. These fishery resources contribute to the food supply and economic health of the Pacific Northwest and the Nation as a whole, provide valuable recreational experiences for thousands of citizens from various parts of the United States and represent a central element of the cultures and economies of Indian tribes and the citizens of the Pacific Northwest.

(2) Over a period of several decades, competing uses of salmon and steelhead habitat

and historical problems relating to conservation measures, the regulation of harvest and enhancement have depressed several of these stocks of salmon and steelhead.

(3) Improved management and enhancement planning and coordination among salmon and steelhead managers will help prevent a further decline of salmon and steelhead stocks and will assist in increasing the supply of these stocks.

(4) Due in principal part to the Federal court decisions in the United States against Washington and Sohappy against Smith, the fishing capacity of nontreaty fishermen in the conservation areas established by this chapter exceeds that required to harvest the available salmon resources. This excess capacity causes severe economic problems for these fishermen.

(5) The supply of salmon and steelhead can be increased through carefully planned enhancement measures designed to improve the survival of stocks and to augment the production of artificially propagated stocks. By careful choice of species, areas, and stocking procedures, enhancement programs can be used to—

(A) improve the distribution of fish among different groups of treaty and nontreaty fishermen; and

(B) add stability to the treaty and nontreaty fisheries by reducing variations in fish availability.

(b) In order to assist the harvesters of the salmon and steelhead resources within the Columbia River conservation area and the Washington conservation area established by this chapter to overcome temporary dislocations arising from the decisions in the cases of United States against Washington and Sohappy against Smith and from other causes, this chapter authorizes the establishment of a cooperative program involving the United States, the States of Washington and Oregon, the treaty tribes acting through the appropriate tribal coordinating bodies, and other parties, to—

(1) encourage stability in and promote the economic well being of the treaty and nontreaty commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and nontreaty fisheries through—

(A) the purchase of nontreaty commercial and charter fishing vessels, gear, and licenses; and

(B) coordinated research, enhancement, and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

(Pub. L. 96-561, title I, § 102, Dec. 22, 1980, 94 Stat. 3275.)

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Pub. L. 96-561, title I, § 101, Dec. 22, 1980, 94 Stat. 3275, provided that: "This title [enacting this chapter and provisions set out as a note under section 1823 of this title] may be cited as the 'Salmon and Steelhead Conservation and Enhancement Act of 1980'."

RESEARCH AND DEVELOPMENT PROGRAM TO IMPROVE  
SALMON SURVIVAL

Pub. L. 104-303, title V, §511, Oct. 12, 1996, 110 Stat. 3761, as amended by Pub. L. 106-53, title V, §582, Aug. 17, 1999, 113 Stat. 375; Pub. L. 110-114, title V, §5025, Nov. 8, 2007, 121 Stat. 1203; Pub. L. 113-235, div. D, title I, §104, Dec. 16, 2014, 128 Stat. 2307, provided that:

“(a) SALMON SURVIVAL ACTIVITIES.—

“(1) IN GENERAL.—In conjunction with the Secretary of Commerce and the Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.

“(2) ACCELERATED ACTIVITIES.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

“(A) impacts from water resources projects and other impacts on salmon life cycles;

“(B) juvenile and adult salmon passage;

“(C) light and sound guidance systems;

“(D) surface-oriented collector systems;

“(E) transportation mechanisms; and

“(F) dissolved gas monitoring and abatement.

“(3) ADDITIONAL ACTIVITIES.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

“(A) studies of juvenile salmon survival in spawning and rearing areas;

“(B) estuary and near-ocean juvenile and adult salmon survival;

“(C) impacts on salmon life cycles from sources other than water resources projects;

“(D) cryopreservation of fish gametes and formation of a germ plasma repository for threatened and endangered populations of native fish; and

“(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

“(4) COORDINATION.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

“(5) REPORT.—Not later than 3 years after the date of enactment of the Water Resources Development Act of 1999 [Aug. 17, 1999], the Secretary shall submit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

“(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$43,400,000 to carry out research and development activities under paragraph (3).

“(b) ADVANCED TURBINE DEVELOPMENT.—

“(1) IN GENERAL.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers-operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of fish-friendly turbines, for use on the Columbia/Snake River hydrosystem.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$35,000,000 to carry out this subsection.

“(c) MANAGEMENT OF PREDATION ON COLUMBIA/SNAKE RIVER SYSTEM NATIVE FISHES.—

“(1) NESTING AVIAN PREDATORS.—In conjunction with the Secretary of Commerce and the Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on

dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 to carry out research and development activities under this subsection.

“(d) IMPLEMENTATION.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.”

**Executive Documents**

RESTORING HEALTHY AND ABUNDANT SALMON,  
STEELHEAD, AND OTHER NATIVE FISH POPULATIONS IN  
THE COLUMBIA RIVER BASIN

Memorandum of President of the United States, Sept. 27, 2023, 88 F.R. 67617, provided:

Memorandum for the Heads of Executive Departments and Agencies

The Columbia River and its tributaries, wetlands, and estuaries are the lifeblood of the Pacific Northwest, providing abundant water, power, recreation, agriculture, transportation, and natural resources that have supported livelihoods, cultural and spiritual practices, commerce, and economic growth. The salmon, steelhead, and other native fish populations in the Columbia River Basin (Basin) are essential to the culture, economy, and way of life of Tribal Nations in the region and Indigenous peoples in Canada, and also provide an important food source for endangered orca, which are sacred to many Tribal Nations in the region. In 1855, the United States and four of the Tribal Nations of the Basin entered into treaties specifying that these Tribal Nations reserved the right to harvest fish on their reservations and at all usual and accustomed places. At that time, an estimated 7.5 to 16 million adult salmon and steelhead returned to the Basin each year.

Actions since 1855, including the Federal Government's construction and operation of dams in the Basin, have severely depleted fish populations. Thirteen salmon and steelhead populations are listed as threatened or endangered, other populations of those fish have been extirpated, and other native fish populations have also declined, causing substantial harm to Tribal Nations and other communities reliant on salmon and steelhead. Despite decades of hard work, ingenuity, expense, and commitment across Federal, Tribal, State, and local governments and a wide range of stakeholders, the populations of salmon, steelhead, and other native fish populations in the Basin continue to decline or have not recovered to the level that would warrant removing any population from the list of threatened and endangered species.

It is time for a sustained national effort to restore healthy and abundant native fish populations in the Basin. For these reasons, and by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**SECTION 1. Policy.** It is a priority of my Administration to honor Federal trust and treaty responsibilities to Tribal Nations—including to those Tribal Nations harmed by the construction and operation of Federal dams that are part of the Columbia River System (CRS)—and to carry out the requirement of the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96-501) [16 U.S.C. 839 et seq.] to operate, manage, and regulate the CRS to adequately protect, mitigate, and enhance fish and wildlife affected by the Federal dams in the Basin in a manner that provides equitable treatment for fish and wildlife with the other purposes for which the Federal dams are managed and operated.

In recognition of these priorities, it is the policy of my Administration to work with the Congress and with Tribal Nations, States, local governments, and stakeholders to pursue effective, creative, and durable solu-

tions, informed by Indigenous Knowledge, to restore healthy and abundant salmon, steelhead, and other native fish populations in the Basin; to secure a clean and resilient energy future for the region; to support local agriculture and its role in food security domestically and globally; and to invest in the communities that depend on the services provided by the Basin's Federal dams to enhance resilience to changes to the operation of the CRS, including those necessary to address changing hydrological conditions due to climate change.

**SEC. 2. Federal Implementation.** (a) All executive departments and agencies (agencies) with applicable authorities and responsibilities, including the Department of the Interior, including the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Reclamation, the United States Fish and Wildlife Service, and the United States Geological Survey; the Department of Agriculture, including the United States Forest Service and the Natural Resources Conservation Service; the Department of Commerce, including the National Oceanic and Atmospheric Administration; the Department of Energy, including the Bonneville Power Administration; the Department of the Army, including the United States Army Corps of Engineers; and the Environmental Protection Agency, are directed to utilize their authorities and available resources to advance the policy established in section 1 of this memorandum.

(b) Within 120 days of the date of this memorandum [Sept. 27, 2023], all agencies with applicable authorities and responsibilities, including those agencies identified in subsection (a) of this section, shall review their programs affecting salmon, steelhead, and other native fish populations in the Basin, including any program with authority or responsibility with respect to the CRS, for consistency with the policy established in section 1 of this memorandum. As soon as practicable following such review, agencies shall, consistent with applicable law, identify and initiate any steps necessary to advance that policy.

(c) Within 220 days of the date of this memorandum, all agencies with applicable authorities and responsibilities, including those agencies identified in subsection (a) of this section, shall provide the Director of the Office of Management and Budget (Director) an assessment of the agency's programs that can advance the policy established in section 1 of this memorandum and the resources such programs need for this purpose. Based on the assessment, each agency shall prioritize these activities to the extent feasible in their program and budget planning.

**SEC. 3. Intergovernmental Partnership.** The Chair of the Council on Environmental Quality (Chair) and the Director shall explore opportunities and mechanisms to develop an intergovernmental partnership, including through a memorandum of understanding, to advance the policy established in section 1 of this memorandum within the United States; the States of Oregon, Washington, Montana, and Idaho; the Tribal Nations of the Basin, including the Columbia Basin Treaty Tribes (the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation); the Upper Columbia United Tribes (the Confederated Tribes of the Colville Reservation, the Coeur d'Alene Tribe of Indians, the Spokane Tribe of Indians, the Kalispel Tribe of Indians, and the Kootenai Tribe of Idaho); the Upper Snake River Tribes (the Burns Paiute Tribe, the Fort McDermitt Paiute-Shoshone Tribe, the Shoshone-Bannock Tribes of the Fort Hall Reservation, and the Shoshone-Paiute Tribes of the Duck Valley Reservation); and other Tribal Nations, as appropriate. Within 120 days of the date of this memorandum, the Chair and the Director shall submit a report to the President with an update on progress in developing this intergovernmental partnership.

**SEC. 4. General Provisions.** (a) Nothing in this memorandum shall be construed to impair or otherwise affect the ability of heads of agencies to meet the require-

ments of sections 2 and 3 of this memorandum before the deadlines in those sections or to produce additional materials not specifically requested in this memorandum.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) Independent agencies are strongly encouraged to comply with the provisions of this memorandum.

**SEC. 5. Publication.** The Chair is hereby authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

### § 3302. Definitions

As used in this chapter—

(1) The term “appropriate tribal coordinating body” means the Columbia River tribal coordinating body or the Washington tribal coordinating body, as the context requires.

(2) The term “charter vessel” means any vessel licensed by the State to carry passengers for hire for the purpose of recreational salmon fishing.

(3) The term “charter fishing” means fishing undertaken aboard charter vessels.

(4) The term “Columbia River conservation area” means—

(A) all habitat within the Columbia River drainage basin; and

(B) those areas in—

(i) the fishery conservation zone over which the Pacific Fishery Management Council has jurisdiction, and

(ii) the territorial seas of Oregon and Washington,

in which one or more stocks that originate in the habitat describe<sup>1</sup> in subparagraph (A) migrate.

(5) The term “Columbia River tribal coordinating body” means the organization duly authorized by those treaty tribes of the Columbia River drainage basin to coordinate activities for them for purposes of this chapter.

(6) The term “commercial fishing” means fishing for the purpose of sale or barter.

(7) The term “commercial fishing vessel” or “fishing vessel” means any vessel, boat, ship, or other craft which is licensed for, and used for, equipped to be used for, or of a type which is normally used for, commercial salmon fishing.

(8) The term “enhancement” means projects undertaken to increase the production of naturally spawning or artificially propagated stocks of salmon or steelhead, or to protect, conserve, or improve the habitat of such stocks.

<sup>1</sup> So in original. Probably should be “described”.